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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1739 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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GUMANBHAI NATHUBHAI GOHIL

Versus

PALIBEN, WD/O. BHAGWANBHAI PARAGJI CHAUHAN  
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Appearance:

MR BS PATEL for Petitioners  
MR PJ VYAS for Respondent No. 1  
RULE SERVED for Respondent No. 2  
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CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 08/12/2000

ORAL JUDGEMENT

Against the order made by the Gujarat Revenue Tribunal in Revision Applications No. TEN.B. 48/94 and 63/84 dated 9.1.1987, this petition under Article 227 is preferred.

#. Bai Dudhi, who entered into an agreement for sale of land being block No. 166 with Gumanbhai Nathubhai, petitioner No.1, made an application to Prant Officer for permission to sell, which was refused initially. It appears that the same was reconsidered and she was permitted to sell.

#. It is submitted before me that Paliben, daughter of Bhana Narsinh and Bai Dudhi, was not joined as party to the proceedings before the Deputy Collector. It is further submitted that Bai Dudhi could not be Vahivatकर्ता of the property of Bhana Narsinh. The petitioner has not placed on record the document by which Bai Dudhi purchased the land from erstwhile owner of the land in question. Hence, there is nothing on record to show whether it was purchased in her individual capacity or was purchased as Vahivatकर्ता of property of Bhana Narsinh. Mr. Vyas submitted that in Annexure 'D', there is a reference that Bai Dudhi, widow of Bhana Narsinh, purchased the property as Vahivatकर्ता.

#. Suffice it to say that the Tribunal in its order pointed out that if Bai Dudhi wanted to sell the land alone, she could have made an application to get it entered in her own name after notice to all other heirs of Bhana Narsinh. The Tribunal has also expressed an opinion that without that, the permission could not have been granted. The Tribunal has also opined that unless and until all the heirs are joined in the application for permission to sell, permission could not have been granted.

#. Principles of natural justice require that all heirs of Bhana Narsinh be heard before permission to sell the land by the Prant Officer. In view of this, without entering into the merits of the case, this Court is of the view that the parties should be relegated to the Prant Officer. It would be open for the parties to move a fresh application joining all the parties and the Prant Officer, after affording an opportunity of hearing to the heirs of Bhana Narsinh, shall pass an order afresh. In the circumstances, without expressing any opinion on merits, the order passed by the Tribunal is confirmed. It would be open to the Prant Officer to decide the application after hearing all necessary parties.

#. This petition stands disposed of with the aforesaid directions. Rule is discharged. No order as to costs.

( B.C. PATEL, J. )

csm./